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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,852	04/18/2001	Brian Mark Shuster	70111.00022	9134

58688 7590 06/20/2007
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EXAMINER	
FADOK, MARK A	
ART UNIT	PAPER NUMBER
3625	
MAIL DATE	DELIVERY MODE
06/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/837,852	SHUSTER, BRIAN MARK	
	Examiner	Art Unit	
	Mark Fadok	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 April 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5-12 and 14-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5-12 and 14-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The examiner is in receipt of applicant's response to office action mailed 1/4/2007, which was received 4/4/2007. Acknowledgement is made that there were no amendments to the claims, leaving claims 1-3, 5-12, and 14-17 as pending in the instant application. Applicant's remarks have been carefully considered , but were not found to be persuasive, therefore the previous rejection is restated below:

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5-12, and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson (6,591,250).

In regards to claim 1, Johnson discloses a method for managing virtual properties that exist solely in a virtual form within a computer network and that have no physical counterparts (col 18, lines 20-25), comprising:

Johnson teaches providing virtual properties for use in a game (col 18, 20-35), This embodiment provides for the digital copies to be places on a client computer. The reasoning for this improvement over the conventional system of server stored objects can be found in col 9, lines 64-67, where it is explained that large numbers of properties would require a large amount of disk space. Johnson teaches a central computer to store the virtual properties (col 17, lines 25-40). Johnson would be motivated to use the central server embodiment for the game when the value of the objects becomes significant (col 13, lines 7-15).

assigning ownership of the virtual properties to a plurality of owners participating in the computer game (FIG 5C),

said ownership configured through said computer game such that said property owners are permitted to use said virtual properties in said computer game but are not permitted to possess a digital copy of any of said virtual properties (see FIG 10 and discussion above);

maintaining an inventory of said virtual properties in a centralized database accessible by said property owners via a network connection (FIG 10);

allowing said property owners to transfer ownership of their respective virtual properties via said network connection (col 17, lines 40-50); and

maintaining updated records regarding ownership or their respective virtual properties in said centralized database (FIG 5C).

In regards to claim 2, Johnson teaches wherein said step of maintaining an inventory comprises searching for a desired one of said virtual properties within said memory (col 17, lines 23-54).

In regards to claim 3, Johnson teaches wherein said step of maintaining updated records regarding ownership comprises associating said virtual properties with respective ones of said property owners (col 5, lines 9-25).

In regards to claim 5, Johnson teaches wherein said step of allowing said property owners to transfer ownership comprises allowing the property owners to sell their respective virtual properties to buyers (col 17, line 24-38).

In regards to claim 6, Johnson teaches wherein said step of allowing said property owners to transfer ownership comprises allowing said property owners to trade their respective properties for other ones of said virtual properties (col 3, lines 21-32).

In regards to claim 7, Johnson teaches wherein said step of allowing property owners to transfer ownership comprises allowing at leas one of said property owners to win one of said virtual properties from another property owner in the course of the game (col 3, lines 21-32).

In regards to claim 8, Johnson teaches the step or coordinating with partners via said network to identify additional virtual properties not included in said inventory (col 18, line 600.

In regards to claims 9-12 and 14-17, these claims are considered parallel to claims 1-3,5-8 above and are rejected for the same rationale.

Response to Arguments

As a first matter, applicant's specification does not define what is specifically meant by the phrase "not permitting". Therefore the examiner will define this phrase to mean a condition where the virtual properties are not downloaded to the client's computer and remain on the server. With this definition it is clearly seen that when the

system of Johnson uses a central location where games and virtual properties are located, the system is defacto not permitting down loads of the files to the user.

Applicant argues that Johnson does not teach digital property and games being kept at a central location. The examiner disagrees and notes that the embodiment cited by the applicant where Johnson uses a client's computer is considered an improvement over the old and well known method suggested by Johnson of using a central location for the storage of games and virtual properties. Johnson does not dispute that this configuration is used, but instead suggests that an improvement can be made to move the storage to the client computer and save storage space at a central location thus assuring that the system is easily expanded to include additional user.

In regards to claims 7 and 16, Applicant argues that the prior examiner in the 7/16/2004 office action conceded that Johnson did not teach winning virtual property from another during the course of the game. The examiner notes that a traverse of this taking of official notice was not taken in any subsequent reply therefore it is considered to be taken as admitted prior art.

A "traverse" is a denial of an opposing party's allegations of fact. The Examiner respectfully submits that applicants' arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention

was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

In addition the applicant's own specification concedes that "Within the context of such games, it is well known that certain game cards can be played versus other game cards in order to win ownership of that particular card" (applicant's specification, page 13, lines 1-13).

Also, applicant states that "It should be appreciated that the transfer of ownership associated with "winning" or "losing" a particular card would be analogous to the procedure for the sale or trade of a virtual property previously described in the flow chart of FIG. 3. Therefore the rejection applied in the office action (1/4/2007) is proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's **Acting** supervisor, **Yogesh Garg** can be reached on **571.272.6756**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571-273-8300 [Official communications; including After Final communications labeled "Box AF"]

For general questions the receptionist can be reached at 571.272.3600

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Fadok
Primary Examiner